

REMARKS / ARGUMENTS

The present application includes pending claims 1-30, all of which have been rejected. Independent claims 1, 8, and 15 have been amended. New claims 31-46 have been added. The Applicant respectfully submits that the claims define patentable subject matter.

Claims 1-7, 15-24, and 28-30 are rejected under 35 U.S.C. § 102(e) as being anticipated by Tanaka (US Patent 7,245,678). Claims 8-14 and 25-27 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Tanaka in view of Koerner (US Patent 7,049,933). The Applicant respectfully traverses these rejections at least based on the following remarks.

REJECTION UNDER 35 U.S.C. § 102

I. Tanaka Does Not Anticipate Claims 1-7, 15-24, and 28-30

The Applicant first turns to the rejection of claims 1-7, 15-24, and 28-30 under 35 U.S.C. § 102(e) as being anticipated by Tanaka. With regard to the anticipation rejections under 102(e), MPEP 2131 states that “[a] claim is anticipated only if **each and every element** as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” See Manual of Patent Examining Procedure (MPEP) at 2131 (internal citation omitted).

Furthermore, “[t]he identical invention must be shown in as complete detail as is contained in the ... claim.” See *id.* (internal citation omitted).

A. Rejection of Independent Claims 1, 8, and 15

With regard to the rejection of independent claim 1 under Tanaka, the Applicant submits that Tanaka does not disclose or suggest at least the limitation of “determining a signal quality metric for a plurality of signal paths, wherein one or more of said plurality of signal paths is selected based on stored information related to preceding frames,” as recited by the Applicant in independent claim 1.

The Final Office Action states the following:

Regarding claim 1, Tanaka teaches a method for processing signals in a communication system, the method comprising: determining a signal quality metric for each of a plurality of signal paths, wherein one or more of said plurality of signal paths is selected based on stored information for preceding frames (see figure 1, 2, 3 and abstract and column 7, lines 3 - 20 and column 7, lines 55 - 65);

See the Final Office Action at page 2. Tanaka discloses a receiver unit 6, which uses receiving antennas 2a, 2b to receive a digital modulated signal from a digital wireless microphone. Furthermore, the receiver unit 6 of Tanaka uses a changeover switch 4 to select one of the antennas 2a, 2b in response to a selection signal. See Tanaka at Abstract and Figure 1. With regard to the switching between antennas 2a and 2b, Tanaka discloses that **the antenna**

switching is done each time the guard bit section in each frame is received.

See Tanaka, col. 2, lines 55-56 and col. 3, lines 17-20. **In this regard, even if we assume for the sake of argument that the receiver unit of Tanaka determines a signal quality metric for a plurality of signal paths, the Examiner's argument is still deficient since switching between the two antennas 2a and 2b is done each time a guard bit section is received. Therefore, Tanaka selects signal paths based on the receiving of a guard bit section, and not based on stored information related to preceding frames, as recited in Applicant's claim 1. In fact, Tanaka does not even disclose storing of any information related to preceding frames.**

Therefore, the Applicant maintains that Tanaka does not disclose or suggest at least the limitation of "determining a signal quality metric for a plurality of signal paths, wherein one or more of said plurality of signal paths is selected based on stored information related to preceding frames," as recited by the Applicant in independent claim 1.

Accordingly, independent claim 1 is not anticipated by Tanaka and is allowable. Independent claims 8 and 15 are similar in many respects to the method disclosed in independent claim 1. Therefore, the Applicant submits that independent claims 8 and 15 are also allowable over the references cited in the Office Action at least for the reasons stated above with regard to claim 1.

B. Rejection of Dependent Claims 2-7, 16-24, and 28-30

Based on at least the foregoing, the Applicant believes the rejection of independent claims 1 and 15 under 35 U.S.C. § 102(e) as being anticipated by Tanaka has been overcome and requests that the rejection be withdrawn. Additionally, claims [2-7, 22-24] and [16-21, 28-30] depend from independent claims 1 and 15, respectively, and are, consequently, also respectfully submitted to be allowable.

The Applicant also reserves the right to argue additional reasons beyond those set forth above to support the allowability of claims 1-7, 15-24, and 28-30.

II. Rejection of Claims 8-14 and 25-27

Claims 8-14 and 25-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tanaka in view of Koerner (US Patent 7,049,933). Independent claim 8 is similar in many respects to the method disclosed in independent claim 1. Furthermore, Koerner does not overcome the deficiencies of Tanaka as it relates to the above argument for the allowability of claim 1. Therefore, the Applicant submits that independent claim 8 is also allowable over the references cited in the Final Office Action at least for the reasons stated above with regard to claim 1. Additionally, since the additional cited reference (Koerner) does not overcome the

deficiencies of Tanaka, claims 9-14 and 25-27 depend from independent claim 8, and are, consequently, also respectfully submitted to be allowable.

The Applicant also reserves the right to argue additional reasons beyond those set forth above to support the allowability of claims 8-14 and 25-27.

III. New Claims 31-38

New claims 31-38 are similar to claims 1-7 and, therefore, the Applicant submits that no new matter has been introduced by claims 31-38. The Applicant also submits that claims 31-38 are allowable.

CONCLUSION

Based on at least the foregoing, the Applicant believes that all claims 1-46 are in condition for allowance. If the Examiner disagrees, the Applicant respectfully requests a telephone interview, and requests that the Examiner telephone the undersigned Attorney at (312) 775-8176.

The Commissioner is hereby authorized to charge any additional fees or credit any overpayment to the deposit account of McAndrews, Held & Malloy, Ltd., Account No. 13-0017.

A Notice of Allowability is courteously solicited.

Respectfully submitted,

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